

Smith Stratton

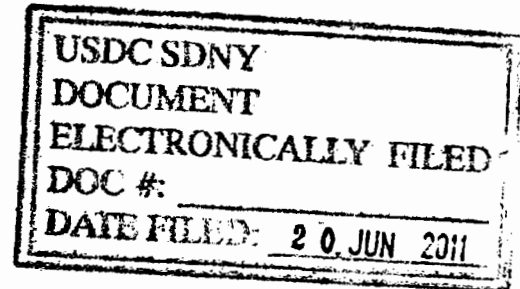
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June 17, 2011

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Honorable Laura T. Swain
United States District Judge
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street, Room 755
New York, New York 10007-1312



Re: Ergon, Inc., et al. v. NYMagic, Inc., et al.
No. 11 Civ. 1080 (LTS)(FM)

MEMO ENDORSED

Dear Judge Swain:

We represent Defendants in the above-referenced matter. This matter is scheduled for an initial conference in front of Your Honor on Friday, June 24, 2011. We along with counsel for Plaintiffs Ergon, Inc. and Ergon Asphalt & Emulsions, Inc., jointly request an extension of time to file our Preliminary Pre-Trial Statement ("Statement"). The Statement is currently due today. We respectfully request that the Court extend the due date for the Statement to Tuesday June 21, 2011.

Counsel has worked together over the last week to prepare the Statement. We have exchanged draft Statements and had two conference calls to discuss same. The parties have made significant progress. However, there is still some language that the parties need to finalize and discuss with their clients. Therefore, we respectfully request an extension of time to allow the parties to submit the Statement to the Court. No previous requests for such an extension have been made.

We thank the Court for its consideration of Defendants' requests.

Respectfully submitted,

William E. Quackenboss, Jr.

The request is granted.

cc: Carrie DiCanio (via email)

SO ORDERED.

NEW YORK, NY
LAURA TAYLOR SWAIN
June 20, 2011 UNITED STATES DISTRICT JUDGE